

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2014-03ST
December 5, 2014

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ISSUES

Sales and Use Tax - "Manufacturing Exemption"

A company ("Taxpayer") is seeking an opinion regarding whether the Indiana sales or use tax laws apply to the acquisition, storage, use, and consumption of the machinery, tools, equipment, and component parts which the Taxpayer uses to construct and develop its solar power plants.

Authority: [IC 6-2.5-1-27](#); [IC 6-2.5-2-1](#); [IC 6-2.5-3-2](#); [IC 6-2.5-3-4](#); [IC 6-2.5-5-3](#); [IC 6-2.5-5-5.1](#); [45 IAC 2.2-5-8](#).

STATEMENT OF FACTS

Taxpayer is a developer and operator of infrastructure assets in the areas of power generation and mining. Taxpayer is interested in manufacturing and developing solar power plants ("Plants") in Indiana. Taxpayer would then sell the energy produced at the Plants to its customers.

In manufacturing and developing these Plants in Indiana, Taxpayer will be purchasing or has purchased "Modules, Fixed Tilt Racking - Pier driven, Inverters, MV 3-Phase and monitoring equipment." Taxpayer describes each of these items as follows:

- **Modules:** a panel made up of polycrystalline cells (in our case, 72 cells) that convert energy from the sun (photons) into electricity. Each module for this project is 305 watts and we have a total of 15,516 modules for a total system size of 4,732,380 watts. The modules are connected through DC wiring into "strings" (in our case, 18 modules per string), which are then fed into combiner boxes that will group between 15 and 28 strings at each combiner box. Larger DC electrical feeders will then be routed from the combiner boxes to the inverters.
- **Racking:** on this project, we have modules installed both on the roof and on top of elevated structures in the parking area. The racking refers to the structural support systems on which the modules are installed.
- **Inverters:** the electricity that is generated from the modules is direct current (DC), which is converted into alternating current (AC) through inverters. For this project, we have five (5) 800kW inverters.
- **MV Transformers:** The modules generate electricity at 1000 volts, which is fed through the inverters (to convert from DC to AC) and then stepped-up to 13.2kV (13,200 volts) by the MV transformers. This 13.2kV AC collection system (electrical) will then tie into the existing facility switchgear, at which location we would also have the utility-grade meter for the PV system.
- **Monitoring Equipment:** this refers to the data acquisition system (DAS) equipment that will be installed at the inverters and will be used to monitor the performance of the solar system

Taxpayer requests the Department to rule whether or not Taxpayer's acquisition, storage, use and consumption of the machinery, tools, equipment, and component parts used in construction and development of its plants are exempt from sales and use tax. Specifically, Taxpayer refers to the purchase of equipment outlined above. Taxpayer states that "[e]ach item of equipment is used in the direct production of electricity through a solar power plant and without a doubt each item is an integral part of an integrated process which produces electricity."

DISCUSSION

[IC 6-2.5-2-1\(a\)](#) imposes sales tax on retail transactions made in Indiana. [IC 6-2.5-3-2\(a\)](#) imposes use tax on the storage, use or consumption of tangible personal property in Indiana, if the property was acquired in a retail

transaction as defined for sales tax purposes, regardless of the location of that transaction.

[IC 6-2.5-5-3](#)(b) and (c) provide an exemption to the sales tax:

(b) Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

[IC 6-2.5-5-5.1](#)(b) states:

Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

[45 IAC 2.2-5-8](#)(c) also provides that:

The state gross retail tax does not apply to purchases of manufacturing machinery, tools, and equipment to be directly used by the purchaser in the production process provided that such machinery, tools, and equipment are directly used in the production process; i.e., they have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces tangible personal property.

Additionally, [IC 6-2.5-5-5.1](#)(a) and [IC 6-2.5-1-27](#) provide that electricity is defined as tangible personal property.

Supplemental to the sales tax exemption noted above, there is a use tax exemption found in [IC 6-2.5-3-4](#)(a), which provides that the storage, use, and consumption of tangible personal property in Indiana is exempt from use tax if the property was acquired in a transaction that is wholly or partially exempt from sales tax and is used, stored, or consumed for the purpose for which it was exempted.

Here, Taxpayer would be producing electricity at a Plant and selling the electricity to its customers. Taxpayer's acquisition of the modules, racking, and inverters would be directly used in the direct production of electricity. Each of these parts is an essential and integral part of an integrated process which produces (or will produce) the electricity sold by Taxpayer. Accordingly, Taxpayer's acquisition, storage, use and/or consumption of such tangible personal property falls within the ambit of the above exemption statutes and is exempt, on that basis, from Indiana sales and use tax.

However, with regards to the transformers, [IC 6-2.5-5-3](#)(c) provides that the exemption found in [IC 6-2.5-5-3](#)(b), supra, "does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity." Generally, electric utilities recognize three stages in providing electricity to customers: (1) production, (2) transmission, and (3) distribution. "Production" refers to the generation of electricity. "Transmission" involves the transfer of electricity from generating sources to local distribution systems. "Distribution" involves the transfer of electricity from local distribution systems to the customer.

The Department finds that the purpose of Taxpayer's use of transformers involves the economics of transmission and distribution, not production. As such, Taxpayer's use of transformers is not a continuation of the industrial production process, but merely part of the transmission and distribution process.

Similarly, Taxpayer's use of monitoring equipment is not for direct use in the direct production of electricity. It would appear that the monitoring equipment does not have an immediate impact on the production of electricity. It would not directly function to change the form, composition, or marketability of the electricity. Undoubtedly, the monitoring equipment plays an important part in the production of electricity. However, as noted in [45 IAC 2.2-5-8](#)(g), "[t]he fact that particular property may be considered essential to the conduct of the business of manufacturing because its use is required . . . by practical necessity does not itself mean that the property 'has an immediate effect upon the article being produced.'"

Based on the foregoing, the Department finds that Taxpayer's acquisition, storage, use and/or consumption of

transformers and monitoring equipment are not for direct use in the direct production of the electricity sold by Taxpayer. Accordingly, Taxpayer's acquisition, storage, use and/or consumption of such tangible personal property does not fall within the ambit of the above exemption statutes and is not exempt, on that basis, from Indiana sales and use tax.

RULING

Taxpayer's acquisition, storage, use and/or consumption of modules, racking, and inverters are exempt from sales and use tax pursuant to the manufacturing exemption found in [IC 6-2.5-5-3\(b\)](#) and the corresponding use tax exemption found in [IC 6-2.5-3-4\(a\)](#).

Taxpayer's acquisition, storage, use and/or consumption of transformers and monitoring equipment are not exempt from sales and use tax pursuant to the manufacturing exemption found in [IC 6-2.5-5-3\(b\)](#) and the corresponding use tax exemption found in [IC 6-2.5-3-4\(a\)](#).

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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